

Planning Commission Date: February 25, 2004

Item No.

2.

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

Report prepared by: Staci Pereira

Public Hearing: Yes: X No: _____

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TITLE: **CONSIDERATION OF AMENDMENTS TO THE ZONING ORDINANCE TEXT AND RELATED DRAFT NEGATIVE DECLARATION (ZT2004-1 AND EA2004-1)**

Proposal: Proposed Ordinance No. 38.763 regarding zoning code text amendments as they relate to single family dwellings and legal posting requirements for public hearings.

Location: Citywide

RECOMMENDATION: Recommend the following to the City Council:

1. Adopt the Negative Declaration (EA2004-1); and
2. Adopt Ordinance No. 38.763 for amendments to the Zoning Ordinance text (ZT2004-1).

Applicant: City Initiated

Attachments: Ordinance No. 38.763 matrix, zoning ordinance sections, memo from City Attorney dated September 12, 2003, Initial Study and Draft Negative Declaration

BACKGROUND

On August 14, 2002, the Planning Commission reviewed Ordinance No. 38.760 (Zone Text Amendment No. ZT2002-6). This amendment addressed 34 issues that required modifications to the zoning code text and was approved by the City Council during the second reading of their meeting on September 17, 2002.

Ordinance No. 38.760 was presented as a first phase of ongoing, necessary amendments to the zoning code to improve its effectiveness as a regulatory tool, recognize it as a dynamic and living document and phase the cost and effort of a comprehensive update. The second phase, packaged into Ordinance No. 38.761 (Zone Text Amendment No. ZT2003-1), involved other necessary zoning code amendments which clarified existing development standards, included new

provisions, incorporated amendments to the Housing Element and Child Care Master Plan and included provisions for second family units and family child care home. This ordinance also included amendments to the General Plan and zoning maps. Ordinance No. 38.761 was reviewed by the Planning Commission at their meeting on April 4, 2003 and approved by the City Council at the second reading on May 20, 2003.

DISCUSSION

This third phase of zoning code text amendments were spurred by community concerns of overcrowding in the residential neighborhoods and its impact on parking. At a Town Hall meeting on October 9, 2003, the Community Advisory Committee discussed the City's authority to regulate occupancy in residential homes. With the assistance of the City Attorney, it was apparent that several of the City's regulations were either not enforceable or in conflict with current federal and state laws, such as limiting the number of unrelated occupants in a household. It was evident that the City's zoning code required revisions to be consistent with these laws, however, there was concern with the loss of the City's ability to regulate the number of occupants in a home. To address this, staff is recommending modifications to existing regulations that would strengthen regulations for dwelling units and retain the single-family residential character of the neighborhoods.

This phase of zoning code text amendments is presented in the attached matrix and are summarized below:

- ❑ To be consistent with federal and state laws, modify the definition of family by removing the maximum number of unrelated persons that can occupy a single-family dwelling.
- ❑ To strengthen regulations for single-family dwellings, staff is recommending the following modifications:
 - Require all occupants of a single-family dwelling to operate as a single housekeeping unit and provide a definition for single housekeeping unit;
 - Modify parking requirements for single-family dwellings to two parking spaces, one of which must be covered, and permanently maintained;
 - Expand the definition of kitchen in order to be consistent with the single housekeeping unit definition; and
 - Clarify rooming and boarding houses by removing rooming and lodging house definitions and references to them, removing number of persons from boarding house definition, and modify boarding house conditional uses to be for three or more persons in all residential districts.
- ❑ In an unrelated amendment, modify the location of the legal notice postings from the project vicinity to the project site and establish criteria for sign postings based on size of property and number of street frontages.

ENVIRONMENTAL REVIEW

An Initial Study and a Negative Declaration (Environmental Impact Assessment No. EA2004-1) have been prepared for this project. The twenty-day public review period began on February 4, 2004. No comments on the document have been received to date. Any comments received will be presented at the public hearing for this project. The proposed zone text amendments had the following impacts that were considered to be less than significant:

There would be a less than significant impact in regards to aesthetics, as a result of the change of the posting requirements from the project vicinity to the project site, which will result in a larger notice to be placed on the project site in order to maintain visibility from all adjacent frontages. These larger signs would impact the visual character of project site, however only temporarily, due to the 10-day posting requirement. In addition, posting on the site will reduce the legal notices left on the utility poles in public right-of-ways in the project vicinity, which are unsightly when not removed promptly after the 10-day noticing period.

There would be a less than significant impact in regards to population and housing, as a result of the amendment to remove the occupant limit for unrelated persons in a household. However, the ordinance also proposes to limit the number of occupants in other ways - by requiring all occupants of a single family dwelling to function as a single housekeeping unit and by an amendment to require two parking spaces, one of which must be covered, which will assist in prohibiting garage conversions and thus limiting the habitable space that can be created.

There would be a less than significant impact in regards to transportation and traffic, as a result of the amendment to remove the occupant limit for unrelated persons in a household, which could result in an increase in vehicular trips on the residential and major streets. However, as mentioned above, the ordinance proposes to limit the number of occupants by requiring all occupants of a single family dwelling to function as a single housekeeping unit and by an amendment to require two parking spaces, one of which must be covered, which will assist in prohibiting garage conversions, thus limiting habitable space that can be created.

There would be a less than significant impact in regards to transportation and traffic, as a result of the amendment to remove the occupant limit for unrelated persons in a household, which could result in inadequate parking. However, as mentioned above, the ordinance proposes to limit the number of occupants by requiring all occupants of a single family dwelling to function as a single housekeeping unit and by an amendment to require two parking spaces, one of which must be covered, which will assist in prohibiting garage conversions, thus limiting habitable space that can be created. Not only do these amendments reduce the likelihood of expanded households, the later also ensures that, in essence, at least three parking spaces for each single family dwelling (one in the garage and two on the driveway) are maintained and available at all times as opposed to only two uncovered spaces currently required.

Any additional comments received will be presented at the Planning Commission hearing.

RECOMMENDATION

Close the Public Hearing. Recommend the following to the City Council:

1. Adopt the Negative Declaration (EIA NO. EA2004-1); and
2. Adopt Ordinance No. 38.763 for amendments to the Zoning Ordinance text (ZT2004-1).

MEMORANDUM

Department of the City Attorney



To: Tambri Heyden, Director of Planning and Neighborhood Preservation

From: John Bakker, Assistant City Attorney

Subject: Regulation of "Overcrowding" in Residential Homes

Date: September 12, 2003

This memorandum addresses several issues related to the regulation of overcrowding in residential homes and the City's limited authority to do so.

The City's Zoning Ordinance generally limits uses in residential districts to single-family dwellings, two-family dwellings, or multiple-family dwellings. The definition of "family" thus is a key term in the Zoning Ordinance's structure. The Zoning Ordinance defines "family" as follows:

An individual, or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons (excluding servants) not related by blood or marriage, living together as a single housekeeping unit in a dwelling unit.

(Milpitas Mun. Code, § XI-10-2.38.) This definition was adopted in 1955 and has not been updated since.

As we have advised the City in the past, enforcement of this provision is precluded by federal statutory law, and, in addition, the provision is likely unconstitutional. The federal Fair Housing Act (42 U.S.C. §§ 3601 et seq.) generally prohibits housing discrimination. Section 3604(f)(3)(B) provides that discrimination includes "a refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford [handicapped] persons equal opportunity to use and enjoy a dwelling." One of the ways a person or persons can be "handicapped" under the Fair Housing Act is due to "familial status." The courts have therefore held a housing regulation cannot treat a group of unrelated persons differently from a family of related persons. Thus, if the City does not place an occupancy limit on the number of family members who can live in a single family residential unit cannot place such a limit on the number of unrelated persons. (See *City of Edmonds v. Oxford House, Inc.* (1995) 115 S.Ct.1776.) Courts have also held that similar language violates equal protection, because it treats similarly situated persons differently. (See, e.g., *College Area Renters and Landlord Assoc. v. City of San Diego* (1996) 42 Cal.App.4th 543 [50 Cal.Rptr.2d 515].)

State law provisions also preclude enforcement of this definition of family. Government Code section 65008 provides that any land use action taken by a local government is null and void if it denies to any individual or group of individuals the enjoyment of a residence because of any of the

following reasons: "The . . . familial status . . . of the individual or group of individuals. . . ." In addition, Government Code Section 12955(l) makes it unlawful to discriminate through public land use practices on the basis of, among other things, familial status. This section provides that zoning laws can be considered discriminatory. Although there are no cases that interpret the phrase "familial status," there is the earlier case of *City of Santa Barbara v. Adamson* (1980) 164 Cal.Rptr. 539. Briefly, this case invalidated a Santa Barbara ordinance that imposed stricter occupancy restrictions on unrelated persons living in single family residences than it did on related persons.

The definition of family in the *City of Santa Barbara* case was essentially the same as the definition of family in Milpitas Municipal Code XI-10-2.38. Based on the preceding discussion, it is the opinion of this office that the definition, if enforced against unrelated persons because they are unrelated persons, violates both federal and state law. It is our recommendation that the City amend the zoning code to address this likelihood.

The above-referenced authorities would appear to allow generally applicable *occupancy limits*. That is, the authorities suggest that the City could adopt a definition of family that stated that a family constitutes a group of *no more than 5 persons* living as a "single housekeeping unit." However, as will be apparent from the subsequent discussion, even occupancy limits appear to be preempted by state law.

California courts have held that limits on the number of persons that may occupy a home are preempted by state law. Health and Safety Code Section 17922 requires the Department of Housing and Community Development to adopt building standards for the construction and use of housing. The courts have held that these building standards preempt local regulation. In particular, the courts have held that the state has preempted the field of occupancy standards.¹ (See *College Area Renters, supra*, 43 Cal.App.4th at pp. 688-689; *Briseno v. City of Santa Ana* (1992) 6 Cal.App.4th 1378.) With respect to maximum residential occupancy, the Department has adopted those standards contained in the Uniform Housing Code. (Cal. Code Regs., tit. 25, § 32; Uniform Housing Code, § 503.2.) The Uniform Code requires that at least one room in a residence be not less than 120 sq. ft. Other habitable rooms must be at least 70 sq. ft. If the room is occupied for sleeping purposes, then the floor area minimum is increased by 50 sq. ft. for each occupant in excess of two. For example, a 15 foot by 15 foot room (225 sq. ft.) could serve as sleeping quarters for upwards of five persons.

Given these preemptive legal authorities, we would recommend that the Zoning Ordinance definition of "family" focus on the concept of the *single housekeeping unit*. For instance, the City of San Jose defines family as "one or more persons occupying a premises and living as a single housekeeping unit."² (San Jose Mun. Code, § 20.200.370.) With such a definition, the focus of enforcement would be solely on whether the persons occupying a residence are "living

¹ I find these decisions to be counterintuitive, but they are binding precedent. The Housing Code deals with safety of those residing in the home, while zoning occupancy standards deal with impacts on the neighborhood and the residence's surroundings. In my opinion, the courts did not give sufficient weight to the different regulatory purposes behind the legislation. However, these cases are "the law of the land."

² San Diego defines family as "two or more persons related through blood, marriage, or legal adoption or joined through a judicial or administrative order of placement of guardianship; or unrelated persons who jointly occupy and have equal access to all areas of a dwelling unit and who function together as an integrated economic unit." (San Diego Mun. Code, § 113.0103.)

as a single housekeeping unit.” This, of course, is primarily directed at residential homes that are internally subdivided into residential hotels or boarding house-like operations. The Zoning Ordinance does not define “single housekeeping unit.” San Jose defines the term to mean “the functional equivalent of a traditional family; whose members are a non-transient interactive group of persons jointly occupying a single dwelling unit, including the joint use of common areas and sharing household activities and responsibilities such as meals, chores and expenses.” (San Jose Mun. Code, § 200.1130.) In an unpublished decision, the Sixth District Court of Appeal concluded that this definition is not unconstitutionally vague, which although not precedential provides a certain level of comfort. Evidence that persons are not living as a single housekeeping unit might include (a) the renting of individual rooms in a residence; (b) compartmentalized common area, such as locked kitchen cabinets or refrigerators and bathrooms that are only accessible to certain tenants; and (c) locked doors on the individual bedrooms.³ Tightening these definitions may allow the City to effectively enforce the provisions of the Zoning Code prohibiting boarding house-like operations in residential zones.

In addition, although state law restricts the City’s ability to impose occupancy standards for residences, the City is not prohibited from enforcing its other ordinances with respect to health, safety, and nuisances. Thus, if a particular property creates a public health hazard to the residents or a nuisance due to overcrowding, the City can proceed to abate the nuisance pursuant to its nuisance abatement ordinances. Enforcement of these ordinances may mitigate many of the negative aspects of overcrowding and may result in the tenants or the landlord voluntarily reducing the number of persons living in the residence.

We trust that this memorandum will prove useful to you. Please let me know if you have any further questions.

c: James Lindsay
Gloria Anaya

³ We have cataloged this evidence from *Ferris v. City of San Jose* (Feb. 6, 2003, H023017) [2003 WL 257949], which is an unpublished, nonprecedential decision from the Sixth District, Court of Appeal. It essentially upholds the City of San Jose’s enforcement of its provisions precluding “guesthouses” in single family neighborhoods. While the case is somewhat instructive in how to deal with guesthouses, it is not binding precedent, and we have not extensively relied on it.

2.

PROPOSED ORDINANCE NO. 38.763

Summary Matrix of Zoning Code Text Amendment No. ZT2004-1

(2-20-04)

PAGE NO.	ISSUE NO.	ISSUE NO.	AFFECTED SECTIONS	PROPOSED SOLUTION
1-2	1	Current noticing procedures require legal notices to be posted near the affected property on utility poles and procedures do not state number of signs required to be posted when a parcel is of a specific size or landlocked, without a street frontage.	64.02-1 (a-f) 64.02-4	<input type="checkbox"/> Change the location of legal notices from project vicinity to project site. <input type="checkbox"/> Update the section by referencing current state and local codes sections. <input type="checkbox"/> Establish criteria for required number of sign postings based on size of property and number of street frontages.
3-14	2	Federal and state laws prevent the City from limiting the number of unrelated persons that make up a family unit. With recent concerns regarding overcrowding in the single-family residential neighborhoods, existing provisions need to be strengthened to ensure the character of such neighborhoods is not jeopardized.	2.16 2.31 2.33 2.38 2.44-1 2.48 2.68 2.69-1.1 4.02-1 4.03-1 4.07 6.03-1 6.04-1 7.03-1 7.04-1 8.04-1 38.03(y) 55.03-5	<input type="checkbox"/> Revise the definition of family to remove the number of unrelated persons that could occupy a dwelling and include a statement that persons must function together as a single housekeeping unit. <input type="checkbox"/> Define a single housekeeping unit as the functional equivalent of a traditional family, whose members are a non-transient interactive group of persons jointly occupying a single dwelling unit, including the joint use of common areas and sharing household activities and responsibilities such as meals, chores and expenses. <input type="checkbox"/> Further define what a kitchen is and provide consistency with single housekeeping unit definition. <input type="checkbox"/> Modify the definition of single family

PROPOSED ORDINANCE NO. 38.763

Summary Matrix of Zoning Code Text Amendment No. ZT2004-1

(2-20-04)

				<p>dwelling by limiting the number of interior kitchens per dwelling to one.</p> <ul style="list-style-type: none">□ Clarify rooming and boarding houses by: modifying definition of boarding house and removing number of persons; remove references and definitions for lodging and rooming houses; and modify boarding house conditional uses in all residential zoning districts to be for 3 or more persons.□ Modify automobile parking requirements in for single family dwellings (R1 and R2 districts) to provide 2 parking spaces, 1 of which must be covered, to be maintained permanently, thereby discouraging garage conversions. This will apply to all residences after the effective date of the ordinance. A garage conversion prior to the effective date will not be grandfathered unless the conversion received building permits.
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Section 64 Notice and Appeal**64.01 Time**

Time of giving notice:

Whenever notice of hearing is required by this Chapter, it shall be given at least ten (10) calendar days before the hearing. (Ord 38.92, 12/6/66)

64.02 Manner

Manner of giving notice:

Whenever notice of hearing is required by this Chapter for any of the following matters:

64.02-1 For pre-zoning of unincorporated land; an amendment to the provisions of this Chapter (including Changes of Zone); an application for a variance or a conditional use permit or new "S" Zone and amendments pursuant to Section 42.10 or for revocation, suspension or modification of the same, or an appeal from the action taken thereon, notice shall be given as per State of California Government Code Section 65091, and shall include all of the following materials: (Ord 38.706, 7/16/96)

- a) ~~By publication~~ Publishing the notice in a newspaper of general circulation within the City. (Ord 38.600, 3/4/86)
- b) ~~By posting the one (1) sign notice per 1000 lineal feet of property street frontage in at least three (3) conspicuous places close to the property affected; and in a conspicuous place on the affected property visible from the street frontage. If the affected property has no street frontage, no less than one (1) sign notice shall be required to be posted.~~
- c) ~~Public hearing notices shall be mailed~~ Mailing the notice, in accordance with Section 1-20-2.20 of the Milpitas Municipal Code, to all property owners and residential renters within three hundred (300) feet of the subject parcel's property boundaries. The ~~Community Development Planning Director or Planning Commission Chair~~ shall have the discretion to require a 1,000 feet notification requirement for public hearings, if the project is deemed to be potentially controversial. (Ord 38.706, 7/16/96)
- d) Mailing the notice, in accordance with Section 1-20-2.20 of the Milpitas Municipal Code, to ~~The owner of the subject real estate property and the applicant, respondent or appellant, shall be given notice by mail in accordance with the provisions of Section 1-20-2.02 of the Milpitas Municipal Code.~~ (Ord 38.600, 3/4/86)
- e) Deleted (Ord 38.706, 7/16/96)
- f) Mailing the notice, in accordance with Section 1-20-2.20 of the Milpitas Municipal Code, to ~~Notice shall be given by mail in accordance with the provisions of Section 1-20-2.02 to~~ the Milpitas Unified School District and, in addition, to any other local agency expected to provide essential facilities and services to the project and whose ability to provide said facilities and services may be significantly affected. (Ord 38.600, 3/4/86)

2 Contents of Notice of Public Hearing

All notices shall include the date, time and place of any public hearing, the identity of the hearing body and a general explanation of the matter to be considered and a general description, by text or diagram, of the location of the real property, if any, that is the subject of the hearing. (Ord 38.600, 3/4/86)

(1)

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3 Deleted (Ord 38.513, 6/3/80)

4 For cases not otherwise provided for herein: (and, except where otherwise required by the law of the State of California), notice shall be given by publication or posting or mailing, in the discretion of the City Manager, and in accordance with the provisions of Section ~~2~~, ~~Chapter 20, Title I-20-2~~ of the Milpitas Municipal Code.

a) Nothing herein contained shall be construed to require the giving of notice or the holding of a hearing unless a public hearing is required by law

64.03 Appeals

64.03-1 Except as otherwise provided in Section 62.03-4 (a) of this Chapter, any person aggrieved by any decision of any officer, board, commission or department of the City of Milpitas under the provisions of this Chapter may appeal said decision to the Code.

2 While appeals hereunder shall be heard at general or special meetings of the City Council, no notice thereof need be given (other than as required by said Section 5, Chapter 20, Title I of the Milpitas Municipal Code). Provided, however, that if the appeal is taken from action on an application for a variance, conditional use or other permit, notice of the hearing of the appeal shall also be given in accordance with the provisions of Subsection 64.01-1 and 64.02-2 of this Chapter.

3 Exception to Appeal Procedure

Provided, however, that the time for any appeal from action of the Planning Commission in granting, granting subject to condition or denying an "S" Zone pending a zoning amendment (pursuant to the provisions of Section XI-10-42.02) or in granting, granting subject to condition or denying a Use Permit pending a zoning amendment (pursuant to the provisions of Section XI-10-57.04) shall be extended so that said appeal may be taken at the time within ten (10) days from the date that said City Council shall give second reading to the Zoning Ordinance amendment. (Ord 38.205, 10/20/70)

64.04 Expiration of Permit or Approvals

Any Conditional Use, "S" Zone, Variance or other permit approval granted under the terms of this Ordinance shall expire (without notice to the grantee) eighteen (18) months after the date of approval, unless the approval is used or exercised before expiration. (Ord 38.542, 4/6/82)

64.04-1 Time Extension

An extension of time not exceeding eighteen (18) months may be granted by the Planning Commission and no more than one (1) extension shall be granted. An extension is valid only if approved before the pending expiration date. New conditions may be imposed on an extension of time for any permit. (Ord 38.5432, 4/6/82)

2 Use of Approvals

For the purposes of Section 64.04 an approval is "used" or "exercised" if the applicant

- 1) obtains a building permit and completes a foundation, or
- 2) dedicates any land or easement as required from the zoning action, or
- 3) complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner. (Ord 38.542, 4/6/82)

3 Date of Approval

Unless there is an appeal the date of approval is the date on which the deciding body votes on the motion of approval. When there is an appeal, the date of approval is the date of the administrative vote on the motion finally determining the appeal. (Ord 38.542, 4/6/82)

An open area, other than a street, used for the display, sale or rental of new or used automobiles or trailers, and where no repair work is done except minor incidental repair of automobiles or trailers to be displayed or sold on the premises. (Ord. 38 (part), 3/15/55)

2.13 Automobile Wrecking

The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts. (Ord. 38 (part), 3/15/55)

2.14 Basement

A story, partly or wholly, underground. For purposes of height measurement, a basement shall be counted as a story where more than one-half (1/2) of its height is above the average level of the adjoining ground. (Ord. 38 (part), 3/15/55)

2.14-1 Bay Window

A window or set of windows jutting out from the wall of a building, rising from the ground and forming an alcove which may or may not add additional floor area or a sitting area within. (Ord. 38.667 (part), 1/21/92)

2.14-2 Billiard Center

A place for the public to view and participate in cuesports, such as but not limited to billiards, pocket billiards (e.g. pool), snooker, and the various forms of carom billiards. (Ord. 38.688 (part), 3/15/94)

2.15 Block

That property so designated on an official map of the City, or part of the City, or bounded by streets, or by a street or streets, and railroad right-of-way, canal right-of-way, or unsubdivided acreage. (Ord. 38 (part), 3/15/55)

2.16 Boarding House

A building, or portion thereof, other than a hotel, where ~~meals and meals and~~ lodging ~~for five (5) or more persons~~ are provided for compensation, including a bed and breakfast. (Ord. 38 (part), 3/15/55)

2.17 Breezeway

A covered passageway between buildings which does not exceed ten (10) feet in width and which has at least one (1) side open, except for necessary supporting columns. (Ord. 38 (part), 3/15/55)

2.18 Building

A structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or chattels. Where a dwelling is separated by a division wall without openings, each portion of such dwelling shall be deemed a separate building. (Ord. 38 (part), 3/15/55)

2.19 Building, Height of

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2.29.1 Day Care Center *(deleted by Ord. 38.761, 5/20/03)*

2.30 District

A portion of the City within which certain uses of land and buildings are permitted or prohibited and within which certain yards and other open spaces are required and certain height limits are established for buildings, all as set forth and specified in this Chapter. (Ord. 38 (part), 3/15/55)

2.31 Dwelling

A building or portion thereof designed exclusively for residential occupancy, including single-family, two-family, and multiple-family dwellings, but not including hotels, ~~boarding and lodging houses~~. (Ord. 38 (part), 3/15/55)

2.32 Dwelling Unit

Two (2) or more rooms in a dwelling or apartment hotel designed for occupancy by one (1) family for living purposes and having only one (1) kitchen. (Ord. 38 (part), 3/15/55)

2.33 Dwelling, Single-Family

A detached building designed exclusively for occupancy by one (1) family for living purposes and having only one (1) kitchen. (Ord. 38 (part), 3/15/55)

2.34 Dwelling, Two-Family

A building designed exclusively for occupancy by two (2) families living independently of each other. (Ord. 38 (part), 3/15/55)

2.35 Dwelling, Multiple-Family

A building or portion thereof, designed for occupancy by three (3) or more families living independently of each other. (Ord. 38 (part), 3/15/55)

2.36 Dwelling, Group

One (1) or more dwellings, other than a tourist court, arranged around two (2) or three (3) sides of a court, which opens onto a street, or a place approved by the commission, including single-family, two-family or multiple-family dwellings and court apartments. Group dwelling include homeless shelters and transitional housing. (Ord. 38 (part), 3/15/55)

2.36-1 EcoPass

A program offered by the Valley Transportation Agency (VTA) in which employers or property owners purchase annual EcoPass stickers that allow their employees, tenants or residents to ride all VTA bus and light rail vehicles at no cost. (Ord. 38.759 (part), 4/2/02)

2.37 Educational Institution

A college or university giving general academic instruction equivalent to the standards prescribed by the State Board of Education. (Ord. 38 (part), 3/15/55)

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2.37-1 Erosion

Erosion is the wear and removal of the material in the earth's crust from one site and the deposition at another. (Ord. 38.355, 9/16/75; Ord. 38 (part), 3/15/55)

2.37-2 Expansive Soils

Expansive soils are earth materials, which greatly increase in volume when they absorb water and shrink when they dry. (Ord. 38.355, 9/16/75; Ord. 38 (part), 3/15/55)

2.38 Family

An individual, or two (2) or more persons related by blood or marriage, ~~or a group of not more than five (5) persons (excluding servants) not related by blood or marriage, living together as a single housekeeping unit in a dwelling unit, or legal adoption or joined through a judicial or administrative order of placement or guardianship; or unrelated persons who function together as a single housekeeping unit.~~ (Ord. 38 (part), 3/15/55)

2.38-1 Family Child Care Homes

A home in which care, protection, and supervision of fourteen (14) or fewer children is regularly provided, in the care giver's own home, for periods of less than twenty-four (24) hours per day, while the parents or guardians are away. Such homes are licensed by the State of California and include the following:

- a) "Large family child care home" which means a home in which family child care is provided to nine (9) to fourteen (14) children, including children under the age of ten (10) who reside at the home.
- b) "Small family day care home" which means a home in which family day care is provided to eight (8) or fewer children, including children under the age of ten (10) who reside at the home. (Ord. 38.702 (2) (part), 8/15/95; Ord. 38.339, 2/19/74; Ord. 38 (part), 3/15/55)

2.38-2 Floor Area Ratio

Floor Area Ratio (FAR) is defined for non-residential Zoning Districts as the maximum permitted ratio of gross floor area (as defined in Section 2.41-1.2) to site area and is calculated as follows:

$$\text{FAR} = \frac{\text{Total of Gross Floor Area for All Structures on Site}}{\text{Site Area}}$$

Increases above the maximum permitted FAR for any district can be allowed with approval of a Use Permit by the Planning Commission. This can be considered when the applicant can demonstrate that the proposed development will (1) generate low peak-hour traffic; (2) will not create a dominating visual prominence. Examples of such uses include wholesaling, distribution and hospitals. In each case where an increase in the maximum permitted FAR has been allowed, all other development standards for the site must be met. (Ord. 38.713 (1) (part), 12/3/96)

2.39 Frontage

All the property fronting on one side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or city boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts. (Ord. 38 (part), 3/15/55)

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2.44 Junk Yard

The use of more than one hundred (100) square feet of the area of any lot for the storage of junk, including scrap materials and metals, or wrecked vehicles and machinery, whether or not sale of such junk is made or proposed. (Ord. 38 (part), 3/15/55)

2.44-1 Kitchen (for residential uses)

A residential kitchen shall be enclosed and interior to the dwelling unit, utilized for the preparation of food and include two (2) or more of each of the following:

- a) A sink (typically larger than 14" x 17");
- b) A full size refrigerator (typically larger than 24" x 64");
- c) A 220-V electrical service outlet (typically used for major cooking appliances such as a stove, oven or cooking range)

~~Each additional enclosed food preparation room shall be limited to a wetbar sink no larger than 5 cubic feet and a mini-refrigerator.~~

2.45 Kennel

Any lot or premises on which four (4) or more dogs, more than four (4) months of age are kept. (Ord. 38 (part), 3/15/55)

2.45-1 Lateral Spreading

Lateral spreading is the movement of loose soils over low-angle slopes ((less than five (5) percent) into open areas during an earthquake. (Ord. 38.355, 9/16/75; Ord. 38 (part), 3/15/55)

2.45-2 Live Work Unit

A dwelling unit with a separate living space attached to a work space within the same unit. The work space and the living space must be occupied by the same tenant. (Ord. 38.759 (part), 4/2/02)

2.46 Loading Area

An open area, other than a street or alley, used for the loading or unloading of vehicles. (Ord. 38 (part), 3/15/55)

2.47 Loading Space

An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials, and which abuts upon a street or other appropriate means of access. (Ord. 38 (part), 3/15/55)

2.48 Lodging House

~~A building, or portion thereof, other than a hotel, where lodging for five (5) or more persons is provided for compensation, including rooming house. (Ord. 38 (part), 3/15/55)~~

2.49 Lot

6

relative redemption rates, and to meet the requirements of certification as a recycling facility, multiple grouping of reverse vending machines may be necessary.

(b) A bulk reverse vending machine is a reserve vending machine that is larger than fifty (50) square feet, is designed to accept more than one container at a time; and will pay by weight instead of by container. (Ord. 38.629 (A) (part), 10/27/87)

2.68 Rooming House

~~Same as "Lodging House". (Ord. 38 (part), 3/15/55)~~

2.68-1 Satellite Dish Antenna or Satellite Antenna

Any device incorporating a reflective surface that is solid, open mesh or bar configured to form a shallow dish, cone, horn or cornucopia used to transmit and/or receive electromagnetic signals. This definition includes antennas that are sometimes called "SES", "TVRO", "TVBS", and "DBS".

2.69 School: Elementary, Middle or High

An institution which offers instruction in the several branches of learning and study required to be taught in the public schools by the Education Code of the State of California. (Ord. 38.710 (part), 8/6/96; Ord. 38 (part, 3/15/55), 3/15/55, Ord. 38.710, 8/6/96)

2.69-5 Setback

See "Yard".

2.69-1 Second Family Unit

An attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the single-family dwelling is situated. A second unit also includes an efficiency unit, as defined in Section 17958.1 of the State Health and Safety Code, and a manufactured home, as defined in Section 18007 of the State Health and Safety Code. Refer to Subsection 54.22 of this Chapter for development standards.

2.69-1.1 Single Housekeeping Unit

The functional equivalent of a traditional family, whose members are a non-transient interactive group of persons jointly occupying a single dwelling unit, including the joint use of common areas which are not compartmentalized, such as locked cabinets or doors, and sharing household activities and responsibilities such as meals, chores and expenses. A single housekeeping unit shall be limited to one (1) kitchen and shall have permanent internal access to all rooms within the dwelling unit, except as provided for section 54.22.

2.69-2 Slope

Same as "Natural Land Slope". (Ord. 38.355, 9/16/75)

2.69-3 Slope Stability

Slope stability is the relative ability of slopes to retain their frictional resistance to downslope movement. (Ord. 38.355, 9/16/75)

2.70 Stable, Private

(7)

Section 4 "R1" Single Family Residence District**4.01 Purpose**

To stabilize and protect the residential characteristics of the District and to promote and encourage a suitable environment for family life. The "R1" District is intended for the suburban family home and the services appurtenant thereto. (Ord 38.19, 1/17/61)

4.02 Principal Permitted Uses

The following are the principal permitted uses in an "R1" District:

- 4.02-1 Single-family dwellings, that contain one (1) kitchen and have internal access to all rooms and common areas, except as provided for in Section 54.22.
- 4.02-2 Planned Unit Developments subject to provisions of Subsection 54.07.
- 4.02-3 Agriculture, except the raising of animals or fowl for commercial purposes, or the sale of any products at retail on the premises. (Ord 38.19, 1/17/61)
- 4.02-4 Mobile homes subject to provisions of Subsection 54.14. (Ord 38.541, 4/20/82)

4.03 Accessory Uses

The following are the accessory uses permitted in an "R1" District:

- 4.03-1 ~~Rooming and boarding~~ Boarding houses of not more than two (2) persons.
- 4.03-2 *Home occupations and professional offices* in home, as provided for in Subsection 54.08 (Ord 38.19, 1/17/61)
- 4.03-3 A State authorized, certified or licensed family care home, foster home, or group home serving six (6) or fewer mentally disordered or otherwise handicapped persons or dependent or neglected children provided such home furnishes such care on a 24 hour a day basis. (Ord 38.339, 2/19/74)
- 4.03-4 Other accessory uses and accessory buildings customarily appurtenant to a permitted use, as provided for in Subsection 54.09.
- 4.03-5 Small family day care home (Ord. 38.702, 8-15-95, amending Ord 38.339, 2/19/74)

4.04 Conditional Uses

The following uses may also be permitted if their location is first approved by the Commission, as provided for in Subsection 57: (Ord 38.19, 1/17/61)

- 4.04-1 School (elementary and high) and park, playground or community center, owned and operated by a governmental agency or non-profit community organization;

Permanent church buildings (except rescue mission and temporary revival);

Public service structures, not including corporation yards, storage or repair yards and warehouses; and

Golf course (except driving tee or range, miniature course and similar uses operated for commercial purposes).



- R1-8 Twenty-five (25) feet. If principal building is two (2) stories or over, thirty (30) feet.
 R1-6 Twenty-five (25) feet.
 R1-5 Twenty (20) feet.
 R1-4 Fifteen (15) feet. If principal building is two (2) stories or over, twenty (20) feet.
 R1-3 Fifteen (15) feet. If principal building is two (2) stories or over, twenty (20) feet.
 R1-2.5 Fifteen (15) feet. If principal building is two (2) stories or over, twenty (20) feet.
 (Ord 38.526, 1/20/81)

- 5.2 Rear Yard - Slope equal to or greater than sixteen (16%) percent but less than twenty-six (26%) percent.

R1-10 Forty (40) Feet. (Ord 38.339, 9/20/77)

- 5.3 Rear Yard - Slope equal to or greater than twenty-six (26%) percent.

R1-10 Forty (40) Feet. (Ord 38.339, 9/20/77)

4.07 Automobile Parking Restrictions

4.07-1 There shall be provided at the time of erection of any dwelling at least a minimum of two (2) parking spaces, one (1) of which must be covered permanently and maintained parking spaces in perpetuity, on the same lot with the single family dwelling for each dwelling. This requirement shall not apply to any permitted garage conversions approved prior to the effective date of this ordinance.

Such parking spaces shall not be less than ten (10) feet wide and twenty (20) feet long with adequate provisions for ingress and egress. No automobile driveway to provide access shall be less than eight (8) feet in width.
 (Ord 38.373, 5/4/76)

4.07-2 Deleted. (Ord 38.384, 10/26/76)

4.08 Required Improvements

The above parking areas shall be improved as provided in Subsection 54.03.
 (Ord 38.19, 1/17/61)

4.09 Corner Lots

On corner lots the side yard regulations shall be the same as for interior lots, except on the street side of a corner or reverse corner lots, in which case the side yard shall not be less than fifty (50%) percent of the front yard required on the lots in the rear of such corner lots, but such side yard need not exceed ten (10) feet, nor shall it be less than the side yard required on interior lots.
 (Ord 38.22, 2/1/62)

4.10 Areas for Collecting and Loading Recyclable Materials

There shall be provided areas for collecting and loading recyclable materials in accordance with the requirements of subsection 54.15 of this Chapter.
 (Ord. 38.687, 5/19/94)

4.11 Front Yard Coverage

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Section 7 "R3" Multiple Family District**7.01 Purpose**

To stabilize and protect the residential characteristics of the District and to promote, insofar as compatible with the intensity of land use, a suitable environment for family life.
(Ord 38.19, 1/17/61; Ord. 38 (part), 3/15/55)

7.02 Principal Permitted Uses

The following are the principal permitted uses in an R3 District: (Ord 38.19, 1/17/61)

7.02-1 Dwelling, multiple

7.02-2 Planned unit developments subject to provisions of Subsection 54.07

7.02-3 Agriculture, except the raising of animals or fowl for commercial purposes, or the sale of any products at retail on the premises. (Ord. 38.19 (part), 1/17/61; Ord. 38 (part), 3/15/55)

7.03 Accessory Uses

The following are the accessory uses permitted in an R3 District: (Ord 38.19, 1/17/61)

7.03-1 ~~Rooming and boarding houses~~ of not more than two (2) persons.

7.03-2 Home occupations and professional offices in home, as provided for in Subsection 54.08.

7.03-3 A State-authorized, certified or licensed family care home, foster home or a group home serving six (6) or fewer mentally disordered or otherwise handicapped persons or dependent or neglected children provided such care home furnishes care on a 24-hour a day basis. (Ord 38.339, 2/19/74)

7.03-4 Other accessory uses and accessory buildings customarily appurtenant to a permitted use, as provided for in Subsection 54.09.

7.03-5 Small family day care home. (Ord 38.702 (1) (part); Ord. 38.339 (part), 2/19/74; Ord. 38.19 (part), 1/17/61; Ord. 38 (part), 3/15/55.)

7.04 Conditional Uses

7.04-1 ~~Rooming and boarding houses for any number of guests~~ three (3) or more persons.

7.04-2 Group dwellings.

7.04-3 Hospital, sanitarium or licensed nursing home exceeding six (6) persons except for the following: clinic, animal hospital, and hospital, sanitarium, or nursing home used primarily for contagious, mental or drug or alcohol addict cases.

7.04-4 Large family day care and day care center.

7.04-5 Incidental services, such as restaurants and retail sales to serve residents, provided there is no exterior display or advertising and such activities are conducted in spaces which are integral parts of a main building excluding Adult Businesses, as defined in Subsection 54.18.

7.04-6 Social halls, lodges, fraternal organizations and clubs, except those operated for a profit.

Section 6 "R2" One and Two Family Resident District**6.01 Purpose**

To stabilize and protect the residential characteristics of the District and to promote and encourage a suitable environment for family life. The "R2" District is intended for suburban family homes and the community services appurtenant thereto. (Ord 38.19, 1/17/61)

6.02 Principal Permitted Uses

The following are the principal permitted uses in an "R2" District: (Ord 38.19, 1/17/61)

6.02-1 Single-family dwellings.

6.02-2 Duplex or two-family dwellings.

6.02-3 Planned Unit Development, subject to provisions of Subsection 54.07.

6.02-4 Agriculture, except the raising of animals or fowl for commercial purposes, or the sale of any products at retail on the premises.

6.03 Accessory Uses

The following are the accessory uses permitted in an "R2" District: (Ord 38.19, 1/17/61)

6.03-1 ~~Rooming and boarding~~ Boarding houses of not more than two (2) persons.

6.03-2 Home occupations and professional offices in home, as provided for in Subsection 54.08.

6.03-3 A State authorized, certified or licensed family care home, foster home or group home serving six (6) or fewer mentally disordered or otherwise handicapped persons or dependent or neglected children provided such home furnishes care on a 24 hour a day basis. (Ord 38.339, 2/19/74)

6.03-4 Other accessory uses and accessory buildings customarily appurtenant to a permitted use, as provided for in Subsection 54.09.

6.03-5 Small family day care home (Ord. 38.702, 8-15-95, amending Ord 38.339, 2/19/74)

6.04 Conditional Uses

6.04-1 ~~Rooming and boarding~~ Boarding houses for not over six (6) guests three (3) or more persons.

6.04-2 Licensed nursing home exceeding six (6) persons. (Ord 38.339, 2/19/74)

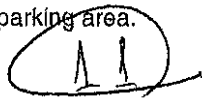
6.04-3 Schools (elementary and high) and park, playground or community center, owned and operated by a governmental agency or a non-profit community organization;

Permanent church building (except rescue mission and temporary revival);

Public service structures, not including corporation yards, storage or repair yards and warehouses; and

Golf course (except driving tee or range, miniature course and similar uses operated for commercial purposes).

6.04-4 Off-street public parking area.



Section 8 R4 Multi-Family Very High Density District**8.01 Purpose and Intent**

To stabilize and protect the residential characteristics of the District and to promote a suitable residential environment. The "R4" District is intended to provide for higher-density residential "villages" structured around transit stations, streets, creek side open spaces, trails and parks. (Ord. 38.759, 4/2/02)

8.02 Principal Permitted Uses

The following are the principal permitted uses in an R4 District:

- 8.02-1 Multiple family dwellings.
- 8.02-2 Planned Unit Developments subject to provisions of subsection 54.07. (Ord. 38.759 (part) 4/2/02)

8.03 Accessory Uses

The following are the accessory uses permitted in an "R4" District:

- 8.03-1 Home occupations and professional offices in home, as provided for in subsection 54.08.
- 8.03-2 A State authorized, certified or licensed family care home, foster home or group home serving six (6) or fewer mentally disordered or otherwise handicapped persons or dependent or neglected children provided such care home furnishes care on a 24-hour a day basis.
- 8.03-3 Other accessory uses and accessory buildings customarily appurtenant to a permitted use, as provided for in subsection 54.09.
- 8.03-4 Small family day care home. (Ord. 38.759 (part), 4/2/02)

8.04 Conditional Uses

- 8.04-1 ~~Rooming and boarding~~ Boarding houses for ~~any number of guests three (3) or more persons.~~
- 8.04-2 Group dwellings.
- 8.04-3 Large family day care homes and day care centers.
- 8.04-4 Live-work units; allowed commercial uses to be specified through the use permit process.
- 8.04-5 Park, playground or community center, owned and operated by a governmental agency or a non-profit community organization.
- 8.04-6 Public service structures, not including corporation yards, storage or repair yards and warehouses.
- 8.04-7 Temporary tract offices and tract signs with the exception that no tract sign shall be permitted within six hundred (600) feet of a Santa Clara County Expressway.
- 8.04-8 Condominium conversion, subject to the regulations set forth in Section 7.14. (Ord. 38.759 (part, 4/2/02)

8.05 Development Standards

- 8.05-1 Structure Height. No building shall exceed four (4) stories and sixty (60) feet in height, including special architectural elements such as towers and spires.
- 8.05-2 Residential Density. Residential development shall be a minimum of thirty-one (31) dwelling units per gross acre and shall not exceed forty (40) dwelling units per gross acre.
- 8.05-3 Front and Street Side Setbacks.

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CITY OF MILPITAS

- Post signs (in English and multi-lingual) inside the premises for all employees identifying procedures for food delivery and garbage disposal.
- All garbage bins shall be stored in the garbage enclosure except for the twelve (12) hours immediately before and after garbage collection.

38.02-3 Medical or dental clinics.

38.02-3.1 Mixed use developments

38.02-4 Multi-Family housing. See Section 38.04 regarding prohibition of ground level residential along portions of South Main Street.

38.02-4.1 Live-work units

38.02-5 Small family day care home.

38.02-6 Planned Unit Developments.

38.02-7 Any other uses which are added to this list by the City Planning Commission, in accordance with the procedure prescribed in Section XI-10-54.02.

38.03 Uses Permitted Subject to Receiving a Conditional Use Permit

38.03-1 The following uses may also be permitted, provided their location and operation is first approved by the Planning Commission, as provided for in Section 57, and they are not Adult Businesses as defined in Subsection 54.18:

- (a) Retail stores, offices or commercial service establishments greater than ten thousand (10,000) square feet in gross floor area.
- (b) Retail stores, offices or commercial service establishments open past 10:00 p.m.
- (c) Arcades, with mechanical or electronic games or games of skill or science.
- (d) New and used auto, recreational vehicle, and boat sales, excluding commercial vehicles, trucks, buses, vans, farm and construction equipment, with accessory repairs and services. Said accessory repairs and services shall be conducted wholly within a completely enclosed building. Outdoor display is allowed.
- (e) Bicycle and auto rental agency, excluding commercial vehicles, trucks, buses, vans, boats and RV rentals. Outdoor display is allowed.
- (f) Billiard centers.
- (g) *Blueprinting.*
- (h) Bowling alleys.
- (i) Catering establishments.
- (j) Cocktail lounges with or without live entertainment.
- (k) Commercial laboratories, including medical and dental laboratories.
- (l) Large family day care homes and day care centers.
- (m) Laundries and dry cleaning establishments.
- (n) Liquor stores.
- (o) Motels and hotels.
- (p) Music or dance instruction.
- (q) Pet hospitals and veterinarians.
- (r) Pet and bird stores.
- (s) Restaurants, or restaurants which include internet usage for customers, that do not meet the performance standards listed in Subsection 38.02-2.
- (t) Restaurants with a bar area, dancing or live entertainment.
- (u) Stores selling used merchandise, such as thrift stores.
- (v) Tanning salons.
- (w) Temporary tract advertising signs with the exception that no tract signs shall be permitted within six hundred (600) feet of a Santa Clara County Expressway.
- (x) Theatres, indoor only.
- (y) ~~Rooming and boarding houses for any number of guests, three (3) or more persons.~~
- (z) Group dwellings.

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CITY OF MILPITAS

55.03-3 Front Yard - Adjoining Projecting Building

Where a lot adjoins only one (1) lot having a main building (within twenty-five (25) feet of its side lot lines), which projects beyond the established front yard line and has been so maintained since this Ordinance became effective, the front yard requirement on such lot may be the average of the front yards of said existing buildings. (Ord 38, 3/15/55)

55.03-4 Front Yard - Sloping Lot

Where the elevation of the ground at a point fifty (50) feet from the front line of a lot, and midway between the side lines, differs ten (10) feet or more from the curb level, or where the slope (measured in the general direction of the side lot lines) is twenty (20%) percent or more on at least one-quarter (1/4) of the depth of the lot, the front yard need not exceed fifty (50%) percent of that required in the district. (Ord 38, 3/15/55)

55.03-5 Front Yard and Side Yard Waived - Dwelling Over Store

The front and side yards shall be waived for dwelling, ~~and hotels and boarding or lodging houses~~, erected above the ground floor of a building when said ground floor is designed exclusively for commercial or industrial purposes. (Ord 38, 3/15/55)

55.03-6 Front and Side Yards Varied - Unit Development

Where an entire frontage on both sides of a street or streets in an "R1" District is designed and developed as a unit, the following provisions shall apply:

- a) The front yard requirements may be varied by not more than five (5) feet in either direction, i.e., from twenty (20) feet to thirty (30) feet in the case of a required front yard of twenty-five (25) feet, provided the average front yard for the entire frontage is not less than the minimum front yard required in the district; and
- b) The side yard requirements may also be varied, provided that the total combined width of the two (2) side yards on a lot is not less than the total side yards required for lots in the district and that the minimum distance between the sides of the buildings shall not be less than the total combined width of the side yards required in the district. (Ord 38, 3/15/55)

55.03-7 Side Yard Waived - Semi-Detached Dwellings, etc.

For the purpose of side yard regulations, the following dwellings with common party walls shall be considered as one (1) building occupying one (1) lot, semi-detached two (2) and four (4) family dwellings, row dwellings, group dwellings and court apartments. (Ord 38, 3/15/55)



CITY OF MILPITAS

Mailing Address: 455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479 • www.ci.milpitas.ca.gov

NEGATIVE DECLARATION **ENVIRONMENTAL IMPACT ASSESSMENT (EIA NO. EA2004-1)**

A NOTICE, PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970, AS AMENDED (PUBLIC RESOURCES CODE 21,000 ET SEQ.), THAT THE CITY OF MILPITAS WILL NOT HAVE A SIGNIFICANT IMPACT ON THE ENVIRONMENT.

Project Title: Zone Text Amendment No. ZT2004-1 (Ordinance No. 38.763)

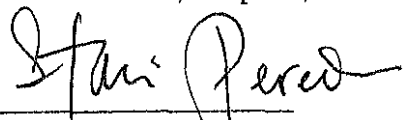
Project Description: The city proposes to amend the Zoning Ordinance by modifying the following provisions as they relate to single-family dwellings: remove the maximum number of unrelated persons that can occupy a dwelling, require all occupants to function as a single housekeeping unit and provide a definition for single housekeeping unit, require two parking spaces to be enclosed within the garage and permanently maintained, and expand the definition of a kitchen. In addition, the project proposes to modify the location of the legal notice postings from the project vicinity to the project site.

Project Location: City of Milpitas, 455 E. Calaveras Blvd., Milpitas, CA 95035.

Project Proponent: City of Milpitas, 455 E. Calaveras Blvd., Milpitas, CA 95035

The City of Milpitas Environmental Impact Committee has reviewed the Environmental Impact Assessment for the above project based on the information contained in the Environmental Information Form and the Initial Study, the Committee finds that the project will have no significant impact upon the environment, as recommended in the EIA.

Copies of the E.I.A. may be obtained at the Milpitas Planning Department, 455 E. Calaveras Boulevard, Milpitas, CA 95035.

By: 
Project Planner



ENVIRONMENTAL IMPACT ASSESSMENT NO. EA2004-1

Planning Division

455 E. Calaveras Blvd., Milpitas, CA 95035

(408) 586-3279

Prepared by: Staci Pereira January 28, 2004
date

Title: Assistant-Planner

1. Project title: Zone Text Amendment No. ZT2004-1 (Ordinance No. 38.763)
2. Lead Agency Name and Address: City of Milpitas, 455 E. Calaveras Blvd., Milpitas, CA 95035
3. Contact person and phone number: Staci Pereira, (408) 586-3278
4. Project location: Citywide
5. Project sponsor's name and address:
City of Milpitas
455 E. Calaveras Blvd.
Milpitas, CA 95035
6. General plan designation: Citywide General Plan Designations 7. Zoning: City Wide Zoning District
8. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)
See attached.
9. Surrounding land uses and setting: Briefly describe the project's surroundings:
See attached.
10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)
N/A

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages:

☐

Aesthetics

☐

Agriculture Resources

☐

Air Quality

☐

Biological Resources

☐

Cultural Resources

☐

Geology / Soils

- | | | |
|--|---|---|
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Land Use / Planning |
| <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Population / Housing |
| <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation / Traffic |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance | |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- ☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- ☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- ☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Date: 1/30/04 Project Planner: Staci Pereira STACI PEREIRA.
Signature Printed Name

A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project level, indirect as well as direct, and construction as well as operational impacts.

WOULD THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
I. AESTHETICS:						
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
b) Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	18, 19
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:						
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19

WOULD THE PROJECT:	IMPACT					
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Source

III. AIR QUALITY: (Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations). Would the project:						
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
IV. BIOLOGICAL RESOURCES: Would the project:						
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish & Game or U.S. Fish & Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish & Game or U.S. Fish & Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19

WOULD THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
V. CULTURAL RESOURCES: Would the project:						
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
VI. GEOLOGY AND SOILS: Would the project:						
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19

WOULD THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	11, 19
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
VII. HAZARDS AND HAZARDOUS MATERIALS:						
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19

WOULD THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
VIII. HYDROLOGY AND WATER QUALITY:						
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or situation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19

WOULD THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff as it relates to C3 regulations for development?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
IX. LAND USE AND PLANNING:						
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

WOULD THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
X. MINERAL RESOURCES:						
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
XI. NOISE:						
a) Result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
b) Result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
c) Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
d) Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19

WOULD THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
XIV. RECREATION:						
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
XV. TRANSPORTATION/TRAFFIC: Would the project:						
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	18, 19
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	13, 18, 19

WOULD THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	13, 18
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	13, 18
XII. POPULATION AND HOUSING:						
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	18, 19
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18, 19
XIII. PUBLIC SERVICES:						
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: Fire protection? Police protection? Schools? Parks? Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19

WOULD THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
XVI. UTILITIES AND SERVICE SYSTEMS: Would the project:						
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19

WOULD THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	

XVII. MANDATORY FINDINGS OF SIGNIFICANCE:						
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or pre-history?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10, 11, 18, 19,
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	11, 12, 18, 19,
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	9, 11, 13, 18, 19

ENVIRONMENTAL IMPACT ASSESSMENT
SOURCE KEY

1. Environmental Information Form submitted by applicant
2. Project plans
3. Site Specific Geologic Report submitted by applicant
4. Traffic Impact Analysis submitted by applicant
5. Acoustical Report submitted by applicant
6. Archaeological Reconnaissance Report submitted by applicant
7. Other EIA or EIR (appropriate excerpts attached)
8. Alquist-Priolo Special Studies Zones Maps
9. BAAQMD Guidelines for Assessing Impacts of Projects and Plans
10. Santa Clara Valley Water District
11. Milpitas General Plan Map and Text
12. Milpitas Midtown Specific Plan Map and Text
13. Zoning Ordinance and Map
14. Aerial Photos
15. Register of Cultural Resources in Milpitas
16. Inventory of Potential Cultural Resources in Milpitas
17. Field Inspection
18. Planner's Knowledge of Area
19. Experience with other project of this size and nature
20. Flood Insurance Rate Map, September 1998
21. June 1994 Water Master Plan
22. June 1994 Sewer Master Plan
23. July 2001, Storm Master Plan
24. Bikeway Master Plan
25. Trails Master Plan
25. Other _____

ENVIRONMENTAL CHECKLIST RESPONSES AND ANALYSIS

The following discussion includes explanations of answers to the above questions regarding potential environmental impacts, as indicated on the preceding checklist. Each subsection is annotated with the number corresponding to the checklist form.

EXISTING SETTING:

The proposed Zoning Text Amendments would affect all zoning districts throughout the City of Milpitas (approximately 13.64 square miles) including: CO (Administrative and Professional Office), C1 (Neighborhood Commercial), C2 (General Commercial), HS (Highway Services), TC (Town Center), M1 (Light Industrial), M2 (Heavy Industrial), MP (Industrial Park), MXD (Mixed Use), R1 (Single Family), R2 (One and two-family), R3 (Multiple-family), R4 (Multi-Family Very High), R1-H (Single family hillside), A (Agriculture), and POS (Park/Public open space). The City is generally bounded by the City of San Jose to the east and south, the City of Fremont to the north and County of Santa Clara unincorporated land to the west.

The general makeup of the City includes mostly single-family residential uses in the eastern half of the City, industrial uses to the south, southwest and northwest and commercial uses to the south and west and interspersed throughout the residential areas. Major thoroughfares include Interstates 680 and 880 running north to south and State Highway 237 running east to west.

PROJECT DESCRIPTION:

The city proposes to amend the Zoning Ordinance by modifying the following provisions as they relate to single-family dwellings: remove the maximum number of unrelated persons that can occupy a dwelling, require all occupants to function as a single housekeeping unit and provide a definition for single housekeeping unit, require two parking spaces to be enclosed within the garage and permanently maintained, and expand the definition of a kitchen. In addition, the project proposes to modify the location of the legal notice postings from the project vicinity to the project site.

Attachment to: Ordinance No. 38.763 (*Project name and type of discretionary permits involved*)

Project Number: N/A

Permit Numbers: Environmental Impact Assessment No. EA2004-1 & Zone Text Amendment No. ZT2004-1

Discussion of Checklist/Legend

PS: Potentially Significant Impact
LS/M: Less Than Significant with Mitigation Incorporation
LS: Less Than Significant Impact
NI: No Impact

I. AESTHETICS

Environmental Impacts

- c) Would the project substantially degrade the existing visual character or quality of the site and its surroundings? LS.

The current legal noticing requirements provide for 3 legal notices to be posted within the project vicinity, which results in adhering 8 ½ x 11 notices to utility poles. The proposed modification, to change the posting requirements from the project vicinity to the project site, will result in a larger notice to be placed on the project site in order to maintain visibility from all adjacent frontages. These larger signs would impact the visual character of project site, however only temporarily, due to the 10-day posting requirement. In addition, posting on the site will reduce the legal notices left on the utility poles in public right-of-ways in the project vicinity, which are unsightly when not removed promptly after the 10-day noticing period. Thus, it has been determined that the impact is less than significant.

XII. POPULATION AND HOUSING

Environmental Impacts

- a) Would the project induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? LS.

The proposed modifications to single-family dwellings include removing the maximum number of unrelated persons that can occupy a dwelling. Without an occupant limit, the potential for overcrowding could result. However, the ordinance also proposes to limit the number of occupants by requiring all occupants of a single family dwelling to function as a single housekeeping unit. This would require the occupants to all have joint use of all common areas, interior access to all bedrooms and restrooms and share household activities and responsibilities such as meals, chores and expenses. The number of persons would also be limited by an amendment which prohibits garage conversions. By requiring the garage to be maintained as two enclosed parking spaces, the garage cannot be converted into living/habitable area such as an additional bedroom. Thus, this can be considered a less than significant impact.

XV. TRANSPORTATION/TRAFFIC

Environmental Impacts

Would the project:

- a) Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? LS.

The proposed modifications to single-family dwellings include removing the maximum number of unrelated persons that can occupy a dwelling. Without an occupant limit, the potential for overcrowding could result and thus an increase in vehicular trips on the

residential and major streets. However, as mentioned above, the ordinance proposes to limit the number of occupants by requiring all occupants of a single family dwelling to function as a single housekeeping unit and by prohibiting garage conversions by requiring the garage to be maintained as two enclosed parking spaces. Thus it can be considered a less than significant impact.

f) Result in inadequate parking capacity?

The proposed modifications to single-family dwellings include removing the maximum number of unrelated persons that can occupy a dwelling. Without an occupant limit, the potential for overcrowding could result and thus result in inadequate parking. However, as mentioned above, the ordinance amendments propose to limit the number of occupants by requiring all occupants of a single family dwelling to function as a single housekeeping unit and by prohibiting garage conversions. Not only do these amendments reduce the likelihood of expanded households it also ensures that, in essence, four parking spaces for each single family dwelling (two in the garage and two on the driveway) are maintained and available at all times as opposed to only two uncovered spaces currently required. Thus it can be considered a less than significant impact.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE

- b) Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? **LS.**

These impacts are discussed in the above sections (under "Aesthetics", "Population" and "Traffic").